

REMARKS

The Specification was amended to correct a typographical error. Support for the amendment to the Specification may be found, for example, in FIG. 3 and in original paragraph [0022]. Claim 9 was cancelled. Claims 2-5 and 7-8 remain in the application. Applicant asserts that no new matter has been added. Reconsideration of the Application is hereby requested.

Claim Rejections

Rejections Under 35 U.S.C. § 112

Claim 9 was rejected under 35 U.S.C. § 112, second paragraph. Applicant has cancelled Claim 9 thereby rendering this rejection moot.

Rejections Under 35 U.S.C. § 103

Claims 2-5 and 7-9 were rejected under 35 U.S.C. § 103(a), as being unpatentable over Kissell (US 2007/0043935) in view of Dwyer et al. (6,874,056).

In response thereto and pursuant to 37 C.F.R. 1.131 and M.P.E.P. § 715 *et seq.*, Applicant submits the attached "Affidavit Pursuant to 37 C.F.R. 1.131" to antedate (or "swear behind") the Kissell reference. The earliest date upon which the Kissell reference could claim priority was August 28, 2003 (the filing date of provisional application no. 60/499,180). However, as set forth in the attached Affidavit, Applicant conceived the claimed invention and reduced it to practice by no later than March 31, 2003 (almost 5 months *before* the priority date of the Kissell reference). [See, Exhibit 1, 1.131 Affidavit, ¶ 3] The statement regarding date of conception is supported by the IBM Invention Disclosure Form that was submitted to the IBM Invention Disclosure Team on March 31, 2003. [See, Exhibit A, attached to Exhibit 1] This Invention Disclosure Form was mailed to the undersigned attorney on August 4, 2003 (still more than three

weeks *before* the priority date of the Kissell reference). [Exhibit B, attached to Exhibit 1], the receipt of which by no later than August 8, 2003 the undersigned attorney hereby attests.

Applicant hereby asserts that the Kissell reference does not claim the same invention as is claimed in the present application.

Thus, given that Applicant has shown that it invented the claimed invention prior to the earliest date upon which Kissell could claim priority and given that the Kissell reference does not claim the same invention as recited in the above-listed claims and given that the Kissell reference was first published after the filing date of the present application, it is believed that Applicant has antedated, and thereby overcome, the Kissell reference pursuant to 37 C.F.R. 1.131 and M.P.E.P. § 715.

Also, regarding the Dwyer reference, nowhere does Dwyer disclose a cache miss counter that controls “a selector for selecting between the thread ID indicator and the cache index indicator,” as recited in Claim 3.

For these reasons, it is believed that this rejection has been overcome and, therefore, Applicant respectfully requests that all remaining claims be allowed.

Prior Art Made of Record

In addition to the remarks presented above, Applicant asserts that the remaining prior art made of record neither anticipates, nor renders obvious the claimed invention.

CONCLUSION

Applicant believes that the rejections have been overcome for the reasons recited above. Therefore, Applicant respectfully requests that all remaining claims be allowed and that a timely Notice of Allowance be issued.

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No addition fees are believed due. However, the Commissioner is hereby authorized to charge any additional fees that may be required, including any necessary extensions of time, which are hereby requested, to Deposit Account No. 503535.

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Date



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